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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,042	12/13/2000	Rudolf Kupper	21669	6636
535	7590	07/14/2004	EXAMINER	
THE FIRM OF KARL F ROSS 5676 RIVERDALE AVENUE PO BOX 900 RIVERDALE (BRONX), NY 10471-0900			MCDOWELL, SUZANNE E	
			ART UNIT	PAPER NUMBER
			1732	

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/736,042	Applicant(s) KUPPER ET AL.	
	Examiner Suzanne E. McDowell	Art Unit 1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 6-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/10/01</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group 1, claims 1-5 in the reply filed on 4/22/04 is acknowledged. The traversal is on the ground(s) that the inventions are the same in scope. This is not found persuasive because the search and consideration for the method does not necessarily include the search and consideration for the apparatus. The method as claimed involves a varying flow cross section which causes variation in the rate at which the preform is drawn by the suction. This is not dependent upon the apparatus, and the apparatus is not required to perform this claimed method. Examining both the apparatus and the method would entail a burdensome search and consideration of both the apparatus and the method classes and subclasses.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 6-9 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 4/22/04.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sadr (US Patent 4,865,799) in view of Lupke et al. (US Patent 6,089,851). Sadr teaches the basic method of providing mold halves (5, 6) which define a mold cavity (7) closed by upper and lower pinch-off gates (9, 10), extruding a parison (15) into the top end (11) of the mold cavity, applying jets of air from orifices (23) to maintain the parison in the middle of the cavity, and applying a vacuum to the bottom end (12) of the mold cavity to

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drive the parison towards the bottom of the mold cavity. Sadr does not specifically teach that the flow cross section varies, or that it is varied by valves. Regarding claim 3, Sadr does not teach that outside air is admitted to the valve when the pressure in the conduit drops below a predetermined level. Lupke et al. teaches vacuum forming (column 1, lines 52-63) a parison (61) with a mold which contains sections (3) having air manifolds (9, 29) and air passages (11) which are controlled by valves (45, 49) in order to vary the vacuum in the mold (column 4, lines 31-40) and that the air applied may be outside air (column 5, lines 20-30). It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the method taught by Lupke et al. to further define the method taught by Sadr in order to form the desired finished product by quickly and efficiently moving the parison into the mold.

Conclusion


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mitchell et al. (US 5,460,771).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne E. McDowell whose telephone number is (571) 272-1205. The examiner can normally be reached on M, W, Th 6:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEM
July 12, 2004


SUZANNE E. MCDOWELL
PRIMARY EXAMINER